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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**DARNELL HINTON,**

**Plaintiff,**

**VERIFIED COMPLAINT  
AND JURY TRIAL DEMAND**

**-against-**

**INDEX NO. \_\_\_\_\_**

**ASSIGNED JUDGE: \_\_\_\_\_**

**RICHMOND COMMUNITY SERVICES,**

**Defendant.**

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Plaintiff Darnell Hinton, by and through his attorney, Paul N. Cisternino, as and for his Verified Complaint, alleges as follows:

**INTRODUCTION**

1. This is an action against the Defendant for the violation of Plaintiff's federally guaranteed constitutional and civil rights and his rights as otherwise guaranteed under law.
2. Plaintiff seeks monetary compensation and other damages for the wrongful, illegal and unconstitutional acts of the Defendant which violated rights guaranteed to the Plaintiff under various federal and state laws, specifically Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Act of 1972, 42 U.S.C. §2000 *et seq.*,

and the New York State Human Rights Law, New York Executive Law §290 *et seq.*

3. Plaintiff alleges herein that he was denied the equal terms, conditions and privileges of employment, subjected to discrimination based on race, color, and also victimized by an unlawful termination.

### **JURISDICTION AND VENUE**

4. The jurisdiction of this Honorable Court is invoked pursuant to and under 28 U.S.C. §§ 1331, 1343 and 1367.

5. The unlawful acts alleged herein were committed in whole or in part in the Southern District of New York.

### **ADMINISTRATIVE PROCEEDINGS**

6. Plaintiff has satisfied all procedural requirements prior to commencing this action in that he timely filed charges of discrimination with the United States Equal Employment Opportunity Commission and his complaint was dual filed with the New York State Division of Human Rights. The Plaintiff requested and received a written Dismissal from the Commission and the instant complaint has been filed within ninety days of the receipt thereof.

### **PARTIES**

7. Plaintiff at all times relevant herein resided within the State of New York.  
8. Upon information and belief the Defendant is an “employer” within the meaning of 42 U.S.C. §2000 *et seq* and New York Executive Law §290 *et seq.*

## **ALLEGATIONS**

9. Plaintiff hereby repeats and realleges each allegation contained in paragraphs “1” through “8” as if fully set forth herein.

10. The Plaintiff is a 48 year-old African American male who had been employed by the Defendant since February 2017 as a Direct Support Professional at their Rick Lane work location.

11. During his period of working for the Defendant the Plaintiff has always acted in a competent and professional manner, without time, attendance, disciplinary nor negative performance issues of any kind (except as to any such matters under dispute herein); the Plaintiff even received a “Quality Matters” Appreciation award in October 2019.

12. Upon information and belief, the Plaintiff was subjected to various types of discrimination and to an unlawful termination based on his race and color, and he was also victimized by a hostile work environment.

13. During the relevant time period, the Resident Director was Jeffrey Greenberg and Plaintiff’s immediate Manager was Mishika James (hereinafter “James”); James often treated the Plaintiff and other minority employees differently from Defendant’s non-minority employees; for example, she questioned Plaintiff’s and other minority employees overtime hours where no other employee’s were questioned despite the fact that all overtime was preapproved by management; James also played favorites, allowing preferred employees to come in late and leave early; she also never dealt with unauthorized use of the van by her favored employees, which were blatant violations of Defendant policy.

14. When the Plaintiff pointed out the unfair treatment that James was subjecting him to she failed to address his complaints and, in fact, reacted angrily when the Plaintiff did so; at any rate, no remedial action was taken by her or any other Defendant managers or administrators, or by Defendant's Human Resources Department.

15. The Plaintiff was summarily and unfairly terminated without advance warning on or about October 19, 2021, despite his exemplary record of service with the Defendant.

16. It is Plaintiff's belief that being Black caused this unlawful, discriminatory termination; as mentioned, he was never provided the opportunity to offer an explanation for what allegedly occurred, nor, to the Plaintiff's knowledge, was an investigation ever conducted by the Defendant into the circumstances surrounding his termination.

17. Although the October 20, 2021 Termination Notice cited "Performance Issues" and "Policy Violation" no specific reasons for the firing were ever given to the Plaintiff; the Plaintiff heard vague rumors only that it related to van usage but this seems dubious because van usage of the type in which the Plaintiff engaged was widespread and accepted throughout the Defendant; there were also vague rumors referencing drug use, which were totally unfounded, unsubstantiated and patently false.

18. To the Plaintiff's knowledge, if the Defendant has a written anti-discrimination policy, they do not properly post it, distribute it or enforce it nor do they properly utilize an employee handbook.

19. At the time of his termination, the Plaintiff was making approximately \$90,000 per year; since being terminated, he has been unable to obtain replacement employment, despite his good faith efforts to do so.

20. In addition, the Defendant is now unfairly and arbitrarily trying to deny Plaintiff's OPWDD Retention and Longevity bonus even though he qualifies; this payment could potentially be as high as \$20,000.

**AS AND FOR A FIRST CAUSE OF ACTION BASED ON RACE/COLOR  
UNDER TITLE VII OF THE 1964 CIVIL RIGHTS ACT**

21. The Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "20" as though fully set forth herein.

22. By engaging in the foregoing conduct, the Defendant has violated Plaintiff's rights under Title VII, having acted intentionally, with malice, or with reckless disregard for Plaintiff's rights, proximately causing Plaintiff mental anguish, conscious pain and suffering, emotional distress, and the loss of income and other related benefits, thereby entitling Plaintiff to an award of compensatory and punitive damages and an award of reasonable attorney's fees.

**AS AND FOR A SECOND CAUSE OF ACTION BASED ON RACE/COLOR  
UNDER NEW YORK EXECUTIVE LAW §290**

23. The Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "22" as though fully set forth herein.

24. By engaging in the foregoing conduct, Defendant has violated Plaintiff's rights under the State Human Rights Law, having acted intentionally, with malice, or with reckless disregard for Plaintiff's rights, proximately causing Plaintiff mental anguish, conscious pain and suffering, emotional distress, and the loss of income and other related benefits, thereby entitling Plaintiff to an award of compensatory damages.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Darnell Hinton respectfully requests that this Court assume jurisdiction herein and thereafter:

1. Award Plaintiff appropriate compensatory and punitive damages in an amount to be defined and determined;
2. Award reasonable attorney's fees and the costs of this action;
3. Award such other and further relief as this Court deems just and proper.

**JURY DEMAND**

Plaintiff demands a jury trial for all claims stated herein.

Dated: Ossining, New York  
February 16, 2023

Respectfully submitted,

Law Office of Paul N. Cisternino, P.C.  
*Attorneys for Plaintiff*

/S/ Paul N. Cisternino  
Paul N. Cisternino (PC-0317)

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**DARNELL HINTON, Plaintiff**

**-against-**

**RICHMOND COMMUNITY SERVICES, Defendant**

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**VERIFIED COMPLAINT AND**

**JURY TRIAL DEMAND**

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**- Litigation Back -**

